

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Peakspeed, Inc.,

Plaintiff,

v.

Timothy Emerson,

Defendant.

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Civil File No. 0:20-cv-01630-JRT-BRT

**DECLARATION OF DAVID  
ZIMMERMAN IN SUPPORT OF  
PLAINTIFF'S OPPOSITION TO  
DEFENDANT'S MOTION TO DISMISS**

I, David Zimmerman, declare as follows:

1. I am employed by Plaintiff Peakspeed, Inc. ("Peakspeed") as Vice President of Engineering. I submit this Declaration in support of Peakspeed's Opposition to Defendant's Motion to Dismiss. I have personal knowledge of the matters set forth in this Declaration, and if called to testify in this case I would and could competently testify as to such matters.

2. I have worked for Peakspeed since February 2020.

3. When I was initially hired by Dave Eaton, I understood that he and Tim Emerson started a new company called Peakspeed. I have never worked for EmersonAI. I know that prior to Peakspeed, Dave Eaton and Tim Emerson worked together at EmersonAI.

4. I report to Peakspeed's Chief Executive Officer, Dave Eaton. Dave Eaton pays my salary and pays for my health insurance. He finances all of Peakspeed's expenses. He also purchased my work laptop.

5. I work remotely for Peakspeed from my home office in Mendota Heights, Minnesota.

6. As Vice President of Engineering, I am responsible for directing and managing Peakspeed employees. I communicate frequently with David Eaton and other Peakspeed employees throughout the day.

7. I had almost daily communications with Defendant Timothy Emerson ("Tim") via email, Microsoft Teams chat, telephone, and/or video conference from February 2020 through July 2020. I received Tim's communications while working from my home office in Minnesota.

8. Another component of my job is meeting with potential clients. Many of Peakspeed's potential clients are based in Minnesota.

9. My understanding is that Peakspeed is based in Minnesota because that is where its Chief Executive Officer, David Eaton, lives and works on behalf of the company. It is also where I live and work as Peakspeed's Vice President of Engineering.

I declare under penalty of perjury under the laws of the United States of America and the State of Minnesota that the foregoing is true and correct.

Dated: 10/1, 2020

By: David Zimmerman  
David Zimmerman